

REMARKS

This request for reconsideration is offered in response to the Office Action mailed May 25, 2004.

The Office Action rejects Claims 1-4 under 35 U.S.C. §103(a) as being obvious over the Tomic reference (U.S. Patent No. 6,217, 215).

At the outset, the Applicants concur with the following language of the Office Action:

Tomic fails to disclose that the ribs are free of flexing inwardly into any of the plurality of grooves or that the second inter-lockable profile has one and only one of the ribs having a central tip and a pair of barbs extending laterally on each side of the tip.

Instead, Tomic includes two such ribs (578, 579)

However, the Applicant respectfully traverses the language which follows the above-quoted language of the Office Action:

However, in column 8, lines 16-19, Tomic disclose[s] that the first and second inter-lockable profiles can be constructed to have any number of ribs. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to modify the closure mechanism of Tomic to reduce the number of ribs having a central tip and a pair of barbs extending laterally thereof, from two to one for the purpose of reducing material and overall cost of manufacture while maintaining a balanced tactile feel.

Apparently, the Office Action cites the following language from column 8, lines 18-19 to support the rejection, to wit, “Alternately, the first and second closure profiles 571, 572 may include any number of profiled elements.”

Applicants respectfully submit that this statement is not adequate for Tomic to serve as prior art against “any number of profiled elements” regardless of the unexpected results that may occur with a reduced number of profiled elements. Analogously, col. 5, line 14 and 15 of the Tomic reference states “Of course, the feedback ribs 161 can be other desired sizes or shapes”. Yet, such a statement would not serve as prior art against a new shape of a feedback rib which achieved unexpected results. Even further analogously, a hypothetical statement that any shape or material could be used for a device would not serve as prior art against any new shape or material used for a device which achieved unexpected results.

In short, the cited statement, with its use of the word “any” is essentially an unbounded range. Further, there is nothing in this statement that makes any suggestion of the number of profiled elements to use. There is certainly no discussion that a reduction in the number of elements increases the balanced tactile feel of the device.

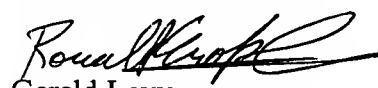
As stated in MPEP 2144.08 II A 4 (a) (page 2100-148 of Eighth Edition, Incorporating Rev. 2, May 2004). “Some motivation to select the claimed species or subgenus must be taught by the prior art.” There is no such statement in the Tomic reference.

As stated above, the prior art essentially discloses an unbounded range. As stated in MPEP 2144.05 (page 2100-142 of the above-referenced edition), “However, if the reference’s disclosed range is so broad as to encompass a very large number of possible distinct compositions, this might present a situation analogous to the obviousness of a species when the prior art broadly discloses a genus” (emphasis added).

It is therefore respectfully submitted that the operative language cited by the Office Action has no substantive prior art value and that the presently pending claims are patentable over the prior art.

In view of the above, each of the claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to early issue.

Respectfully submitted,



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